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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/540,661

06/23/2005

Gregory John Neighbours

4502-1086

2900

466

7590

05/12/2008

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EXAMINER

FIGUEROA, ADRIANA

ART UNIT

PAPER NUMBER

3633

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/540,661	<b>Applicant(s)</b> NEIGHBOURS, GREGORY JOHN	
	<b>Examiner</b> Adriana Figueroa	<b>Art Unit</b> 3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 37-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 22-26 and 36 is/are rejected.
- 7) ☒ Claim(s) 9-21 and 27-35 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/26/2006, 12/19/2005</u> .                                   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group I, "a system, a method and a jack for lifting a concrete slab" in the reply filed on 01/10/2008 is acknowledged.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show reference character 33 disclosed in page 12 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d).

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "spherical roller bearing" recited in claim 9, "the supporting members are provided with a respective sleeve" recited in claim 11, the "bearing plates on the underside of the slab" recited in claim 13, the "jack screw" recited in claim 20 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because: Reference character 5, has been used to identify "central computer" in page 10, "ground floor slab" in page 16, "safety components" in page 20 and "platform" in page 21.

Reference character 6, is used to indicate "a jack system" in page 10 and "boxing" in page 16.

Reference character 7 is used to indicate "the support device" in page 11 and the "trailing restraint member" in page 12.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the

changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

In addition, Examiner wants to note that Figures 9, 10, 11 are unclear making it very difficult to completely understand the invention.

### ***Specification***

5. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Some but not all of the errors found are:

Page 2, line 12, the phrase "and a means for" is incorrect.

Page 7, line 16, the phrase "with hangers in being in tension" is incorrect.

Page 11, line 16, the word "slab" is incorrect, in line 17, the word "strdling" is incorrect.

Page 19, line 23, the phrase "hangers 15 in being in Tension" is incorrect.

Page 20, line 17, the numeral 5 indicating "the boxing or walls" is incorrect, the correct numeral is "50".

### ***Claim Objections***

6. Claims 1, 23, 31, 32 are objected to because of the following informalities:

Claim 1, line 9, the phrase “through a another” , line 10, the phrase “and a means” are incorrect, it should be “through another”, “and means”.

Claim 23, line 10, the phrase “and a means” is incorrect, it should be “and means”.

Claim 31 appears depending from claim 30 that recites the limitation "the jack includes a controller". It is contradictory to have claim 31 depending from claim 30.

Claim 32 appears depending from claim 31 that recites the limitation “the jack does not include a controller”. It is contradictory to have claim 32 depending from claim 31.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation “said supporting means” in line 11. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation “said hanger assembly” in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

8. Claims 22, 24 and 36 rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neighbours (US 5,644,893).

Regarding claim 1, Neighbours discloses a system of lifting and conveying a concrete slab (22) and any associated works, wherein the slab has a plurality of apertures (a) therethrough the slab area, (Figure 1, annotated Figure 9), the said apertures being provided with a respective jack (10), said jack at least comprising at least one shaft (11) having a portion passing through said aperture and contacting a lower support means (40, 41), (Column 5, Lines 1-8), means (30, 51, 53, 55) for connecting said slab to said shaft, (annotated Figure 9),

the connection means incorporating at least one supporting member (30) connecting the slab (22) to the shaft (11), and means (50) for effecting longitudinal travel of said supporting means (30, 51, 53, 55) along said shaft, otherwise resulting in the raising or lowering of said slab, (annotated Figure 9), position sensors associated

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with each jack (Column 8, Lines 42-60), means for communicating between each jack and one or more main controllers, and means controlling each jack whereby the jacks are movable in a synchronized manner, (Col 5, Lines 55-64). However, if applicant disagrees, it would be obvious to provide the communication means to control the system remotely.

Neighbours does not disclose each supporting member (30) passing through another aperture and engaging said slab. However, Examiner takes official notice that it is notoriously well known in the art to place apertures in the slabs to place anchors in the slabs.

Regarding claim 2, Neighbours discloses the jack (10) including trailing restraint means (55, 56) being adapted to provide restraint and or stability for the jack once it has climbed or the jack has been disconnected from the slab, (Figure 9), (Col 6, Lines 66-67, Column 7, Lines 1-3).

Regarding claim 3, Neighbours discloses each aperture therein containing the supporting member (30) being provided in co-operation with the position of the shaft (11), and henceforth the aperture (a) through which it passes.

Regarding claims 4 and 5, Neighbours discloses said lower supporting means (40) includes a supporting strut supporting the shaft from the floor below and a back prop (40) supporting the floor below the strut, (Figures 1-3).

Regarding claim 6, Neighbours discloses as discussed above, but does not disclose each aperture therein containing said shaft is proportionally larger in diameter than said aperture therein containing said supporting member. However, it would have



been an obvious matter of design choice to modify the apertures of Neighbours since such a modification would have involved a mere change in the size of the component and would facilitate the movement of the shaft. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 220 F.2d 459, 105 USPQ 237 (CCPA 1955).

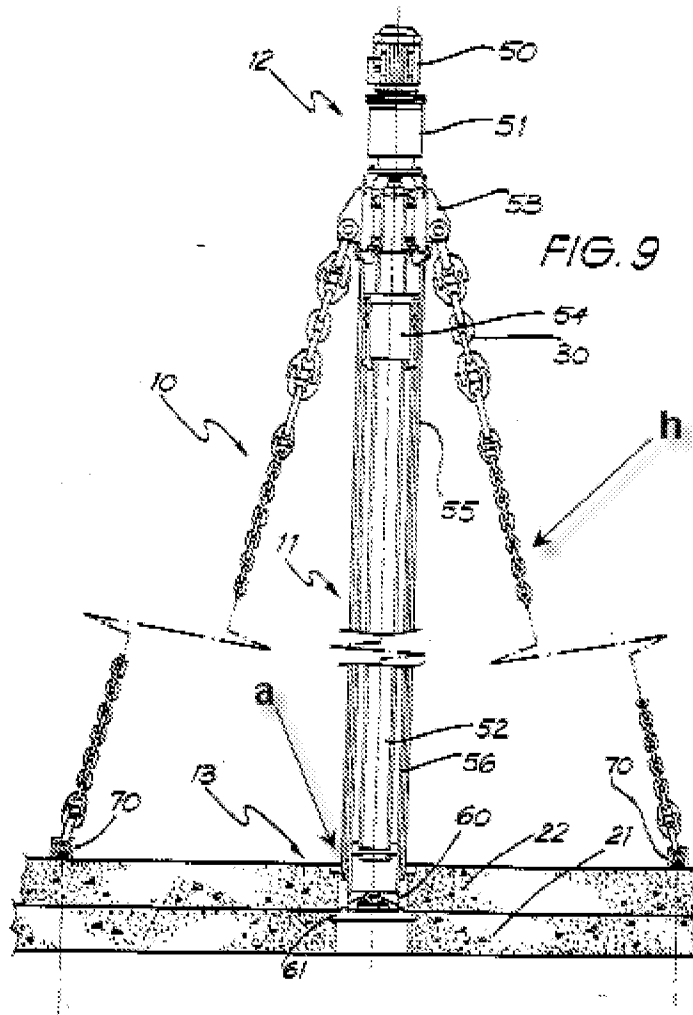
Regarding claim 7, Neighbours discloses each supporting member (30) engages with the upper face of the slab (22), (Figure 9).

Regarding claim 8, Neighbours discloses each jack (10) having pivoting means (p) such that in use each jack can accommodate displacement of the jack whereby there is a minimum transfer of moment through any tensile members, (annotated Figure 9).

Regarding claim 23, the claimed method steps can be seen in the above rejection of the apparatus claims.

Regarding claim 25, Neighbours discloses a jack (10) for lifting a concrete slab (22) , the jack including: at least one shaft (11) and ball screw (52), a drive assembly (12), a hanger assembly (h), a support device(40, 41) wherein the drive assembly drives the ball screw to raise the shaft with respect to the hanger assembly wherein, the support device supports the shaft to prevent toppling and provide stability, (Figure 1, annotated Figure 9).

Regarding claim 26, Neighbours discloses the drive assembly (12) further drives the ball screw (52) to raise the hanger assembly (h) with respect to the shaft (11) such that in use the jack has lifted a slab (22), (annotated Figure 9).



***Allowable Subject Matter***

10. Claims 9-21, 27-35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Saether (US 3,594,965), Graham (US 3,053,015), Youtz (US 2,867,111) teach a slab lifting system having a jack, supporting members; Long (US 3,052,449) teaches a slab lifting system having a jack including a ball screw, roller bearing, a pair of columns on either side of the ball screw.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adriana Figueroa whose telephone number is 571-272-8281. The examiner can normally be reached on Monday-Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. F./

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05/05/2008

/Brian E. Glessner/

Supervisory Patent Examiner, Art Unit 3633